

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,) Civil Action No. 1:13CV721
)
Petitioner,)
)
v.)
)
JAMIE MUELLER,)
)
Respondent.)

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States of America, on behalf of its agency, the Internal Revenue Service, and by its attorney, Carter M. Stewart, United States Attorney for the Southern District of Ohio, avers to this Court as follows:

I.

This is a proceeding brought pursuant to the provisions of sections 7402(b) and 7604(a) of Title 26, U.S.C., to judicially enforce an Internal Revenue Service summons.

II.

Gary Perkins is a Revenue Officer of the Internal Revenue Service, employed in Small Business/Self-Employed Compliance Area 2, and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in Section 7602 of Title 26 U.S.C., and Treasury Regulations § 301.7602-1, 26 C.F.R. § 301.7602-1.

III.

The respondent, Jamie Mueller, resides or is found at 6344 Gracely Drive, Cincinnati, Ohio 45233, within the jurisdiction of this court.

IV.

Revenue Officer Gary Perkins is conducting an investigation into the tax liability of Sayler Park Restaurant & Tavern LLC, for Form 940 liability for the period ending December 31, 2011, and for Form 941 liability for the quarterly periods ending December 31, 2010, March 31, 2011, June 30, 2011, September 30, 2011, December 31, 2011, March 31, 2012, and June 30, 2012, as is set forth in the Declaration of Revenue Officer Gary Perkins attached hereto as Exhibit 1.

V.

The respondent, Jamie Mueller, is the owner and operator of Sayler Park Restaurant & Tavern LLC, and is in possession and control of testimony and other documents concerning the above-described investigation.

VI.

On April 2, 2013, an Internal Revenue Service summons was issued by Revenue Officer Gary Perkins directing the respondent, Jamie Mueller, to appear before Revenue Officer Gary Perkins on April 17, 2013, at 9:00 a.m. at 550 Main Street, Suite 3503, Cincinnati, Ohio 45202, to testify and to produce documents

needed in the Internal Revenue Service's investigation. An attested copy of the summons was personally left at the respondent's home, which shares an entrance with the taxpayer, Sayler Park Restaurant & Tavern LLC, by Revenue Officer Gary Perkins, on April 5, 2013. The summons is attached and incorporated as Exhibit 2.

VII.

On April 17, 2013, the respondent, Jamie Mueller, did not appear in response to the summons. The respondent's refusal to comply with the summons continues to date as is set forth in the declaration of Revenue Officer Gary Perkins attached as Exhibit 1.

VIII.

All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.

IX.

It is necessary to obtain the testimony sought by the summons in order to properly investigate the Federal tax liability of Sayler Park Restaurant & Tavern LLC for the taxable periods ended December 31, 2010, March 31, 2011, June 30, 2011, September 30, 2011, December 31, 2011, March 31, 2012, and June 30, 2012 for Form 940 tax liability, and December 31, 2011 for Form 941 liability, as is evidenced by the declaration of Gary Perkins attached and incorporated as part of this petition.

WHEREFORE, the petitioner respectfully prays:

1. That this Court enter an order directing the respondent, Jamie Mueller, to show cause, if any, why respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the Court enter an order directing the respondent, Jamie Mueller, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance and testimony as is required and called for by the terms of the summons before Revenue Officer Gary Perkins or any other proper officer or employee of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Gary Perkins, or any other proper officer or employee of the Internal Revenue Service.

3. That the United States recover its costs in maintaining this action.

4. That the Court grant such other and further relief as is just and proper.

CARTER M. STEWART
United States Attorney

s/Nicholas J. Pantel _____
NICHOLAS J. PANTEL (0021329)
Assistant United States Attorney
221 East 4th St., Suite 400
Cincinnati, Ohio 45202
(513)684-3711; (513)684-6972 Fax
Nichols.Pantel@usdoj.gov